

Finance Act 1973

Chapter 3 - Direct Taxes

Section 3 - Amendment of Section 2

In section 2 of the Income-tax Act, -

(a) in clause (37A), in sub-clause (ii), after the figures and letter "194B", the figures and letter", 194D" shall be inserted;

(b) in clause (42A), for the portion beginning with the words "short-term capital asset" means a capital asset and ending with the words "notwithstanding that such capital asset has been held by the assessee for not more than twenty-four months immediately preceding the date of its transfer.", the following shall be substituted with effect from the 1st day of April, 1974, namely :-

"short-term capital asset" means a capital asset held by an assessee for not more than sixty month immediately preceding the date of its transfer..

Section 4 - Amendment of Section 28

In section 28 of the Income-tax Act, in clause (ii), after sub-clause (c), the following sub-clause shall be inserted, and shall be deemed to have been inserted, with effect from the 1st day of April, 1972, namely :-

"(d) any person, for or in connection with the vesting in the Government, or in any corporation owned or controlled by the Government, under any law for the time being in force, of the management of any property or business;"

Section 5 - Amendment of Section 35B

In section 35B of the Income-tax Act, in sub-section (1), -

(a) the Explanation shall be numbered, and shall be deemed to have been numbered, as Explanation 1, with effect from the 1st day of April, 1968; and

(b) after Explanation 1 as so numbered, the following Explanation shall be inserted, and shall be deemed to have been inserted, with effect from the 1st day of April, 1968, namely :-

"Explanation 2 : For the purposes of sub-clause (iii) and sub-clause (viii) of clause (b), expenditure incurred by an assessee engaged in the business of -

(i) operation of any ship or other vessel, aircraft or vehicle, or

(ii) carriage of, or making arrangements for carriage of, passengers, livestock, mail or goods,

on or in relation to such operation or carriage to arrangements for carriage (including in each case expenditure incurred on the provision of any benefit, amenity or facility to the crew, passengers or livestock) shall not be regarded as expenditure incurred by the assessee on the supply outside India of services or facilities."

Section 6 - Amendment of Section 45

In section 45 of the Income-tax Act [as amended by section 8 of the Finance Act, 1972 (16 of 1972)], for the words, figures and letters "sections 53, 54, 54B, 54C", the words, figures and letters "sections 53, 54, 54B, 54C and 54D" shall be substituted with effect from the 1st day of April, 1974.

Section 7 - Insertion of New Section 54D

After section 54C (inserted by section 9 of the Finance Act, 1972) (16 of 1972) of the Income-tax Act, the following section shall be inserted with effect from the 1st day of April, 1974, namely :-

"54D. Capital gain on compulsory acquisition of lands and buildings not to be charged in certain cases. - Where the capital gain arises from the transfer by way of compulsory acquisition under any law of a capital asset, being land or building or any right in land or building, forming part of an industrial undertaking belonging to the assessee which, in the two years immediately preceding the date on which the transfer took place, was being used by the assessee for the purposes of the business of the said undertaking, and the assessee has within a period of three years after that date purchased any other land or building or any right in any other land or building or constructed any other building for the purposes of shifting or re-establishing the said undertaking or setting up another industrial undertaking, then, instead of the capital gain being charged to income-tax as the income of the previous year in which the transfer took place, it shall be dealt with in accordance with the following provisions of this section, that is to say, -

(i) if the amount of the capital gain is greater than the cost of the land, building or right so purchased or the building so constructed (such land, building or right being hereafter in this section referred to as the new asset), the difference between the amount of the capital gain and the cost of the new asset shall be charged under section 45 as the income of the previous year; and for the purpose of computing in respect of the new asset any capital gain arising from its transfer within a period of three years of its purchase or construction, as the case may be, the cost shall be nil; or

(ii) if the amount of the capital gain is equal to or less than the cost of the new asset, the capital gain shall not be charged under section 45; and for the purpose of computing in respect of the new asset any capital gain arising from its transfer within a

period three years of its purchase or construction, as the case may be, the cost shall be reduced by the amount of the capital gain."

Section 8 - Amendment of Section 80C

In section 80C of the Income-tax Act, with effect from the 1st day of April, 1974, -

(a) for sub-section (1), the following sub-section shall be substituted, namely :-

"(1) In computing the total income of an assessee, there shall be deducted, in accordance with and subject to the provisions of this section, an amount calculated, with reference to the aggregate of the sums specified in sub-section (2), at the following rates, namely :-

(a) where such aggregate does not exceed Rs. 2,000	The whole of such aggregate;
(b) where such aggregate exceeds Rs. 2,000 but does not exceed Rs. 5,000	Rs. 2,000 plus 50 per cent. of the amount by which such aggregate exceeds Rs. 2,000;
(c) where such aggregate exceeds Rs. 5,000	Rs. 3,500 plus 40 per cent. of the amount by which such aggregate exceeds Rs. 5,000.";

(b) in sub-section (2), -

(i) for sub-clause (ii) of clause (a), the following sub-clause shall be substituted, namely :-

"(ii) to effect or to keep in force a contract for a deferred annuity on the life of the assessee or on the life of the wife or husband or any child of the assessee :

Provided that such contract does not contain a provision for the exercise by the insured of an option to receive a cash payment in lieu of the payment of the annuity;;

(ii) in clause (g), for item (2) of sub-clause (i), the following item shall be substituted, namely :-

"(2) to effect or to keep in force a contract for a deferred annuity on the life of any member of such association or body or any child of any of the members of such association or body :

Provided that such contract does not contain a provision for the exercise by the insured of an option to receive a cash payment in lieu of the payment of the annuity; or".

Section 9 - Amendment of Section 80G

In section 80G of the Income-tax Act, with effect from the 1st day of April, 1974, -

(a) in sub-section (5), -

(i) in clause (i), after the words, brackets, figures and letter "or clause (22A)", the words, brackets and figures "or clause (23)" shall be inserted;

(ii) in clause (v), after the words "or affiliated to any University established by law", the following words, brackets and figures shall be inserted, namely :-

", or is an institution approved by the Central Government for the purposes of clause (23) of section 10,";

(b) after Explanation 3 below sub-section (5), the following Explanation shall be inserted, namely :-

"Explanation 4 : For the purposes of this section, an association approved by the Central Government for the purposes of clause (23) of section 10 shall also be deemed to be an institution, and every association or institution approved by the Central Government for the purposes of the said clause shall be deemed to be an institution established in India for a charitable purpose."

Section 10 - Amendment of Section 80J

In section 80J of the Income-tax Act, clause (c) of sub-section (6) shall be omitted with effect from the 1st day of April, 1974.

Section 11 - Amendment of Section 80S

In section 80S of the Income-tax Act, for the words, brackets and figures "provisions of clause (ii) of section 28,", the words, brackets, letters and figures "provisions of sub-clause (a) or sub-clause (b) or sub-clause (c) of clause (ii) of section 28," shall be substituted, and shall be deemed to have been substituted, with effect from the 1st day of April, 1972.

Section 12 - Amendment of Section 104

In section 104 of the Income-tax Act, with effect from the 1st day of April, 1974, -

(a) in sub-section (1), after the words "the amount of dividends actually distributed, if any", the words ", within the said period of twelve months" shall be inserted;

(b) in sub-section (2), in clauses (i) and (ii), after the words "the payment of a dividend or a large dividend than that declared", the words, brackets and figure "within the period of twelve months referred to in sub-section (1)" shall be inserted.

Section 13 - Amendment of Section 105

In section 105 of the Income-tax Act, in sub-section (1), with effect from the 1st day of April, 1974, -

(a) in clause (i), after the words "has distributed", the words, brackets and figures ",within the period of twelve months referred to in sub-section (1) of section 104," shall be inserted;

(b) in clause (ii), after the words "whose distribution", the words, brackets and figures ",within the period of twelve months referred to in sub-section (1) of section 104," shall be inserted;

(c) in clause (iii), after the words "has distributed", the words, brackets and figures ",within the period of twelve months referred to in sub-section (1) of section 104," shall be inserted;

(d) the following Explanation shall be inserted at the end, namely :-

Explanation : For the purposes of clause (iv) of this sub-section, "the sum distributed as dividends" means, -

(a) where in relation to the assessment made under section 143 or section 144, any further distribution of dividends was made by the company in pursuance of a notice under this sub-section, the aggregate of the following sums, namely :-

(i) the sum distributed as dividends within the period of twelve months referred to in sub-section (1) of section 104, and

(ii) the sum distributed as dividends within the period of three months from the receipt of the said notice;

(b) where an order under section 107A has been made by the Board in relation to the assessment made under section 143 or section 144, the sum distributed as dividends within the period determined by the Board under the provisions of sub-section (4) of section 107A;

(c) in any other case, the sum distributed as dividends within the period of twelve months referred to in sub-section (1) of section 104..

Section 14 - Amendment of Section 112A

In section 112A of the Income-tax Act, in clause (b), for the words, brackets and figures "clause (ii) of section 28", the words, brackets, letters and figures "sub-clause (a) or sub-clause (b) or sub-clause (c) of clause (ii) of section 28" shall be substituted, and shall be deemed to have been substituted, with effect from the 1st day of April, 1972.

Section 15 - Amendment of Section 155

In section 155 of the Income-tax Act, -

(a) after sub-section (8), the following sub-section shall be inserted, and shall be deemed to have been inserted, with effect from the 1st day of April, 1970, namely :-

"(9) Where in the assessment for any year, a capital gain arising from the transfer of any such capital asset as is referred to in section 54B is charged to tax and within a period of two years after the date of the transfer the assessee purchases any other land for being for agricultural purposes, the Income-tax Officer shall amend the order of assessment so as to exclude the amount of the capital gain not chargeable to tax under the provisions of section 54B and the provisions of sections 154 shall, so far as may be, apply thereto, the period of four years specified in sub-section (7) of that section being reckoned from the date of the assessment.";

(b) after sub-section (9) as so inserted, the following sub-section shall be inserted, with effect from the 1st day of April, 1974, namely :-

"(10) Where in the assessment for any year, a capital gain arising from the transfer by way of compulsory acquisition of any such capital asset as is referred to in section 54D is charged to tax and within a period of three years after the date of the transfer, the assessee purchases any other land or building or any right in any other land or building or constructs any other building for the purposes of shifting or re-establishing the industrial undertaking referred to in that section or setting up another industrial undertaking, the Income-tax Officer shall amend the order of assessment so as to exclude the amount of the capital gain not chargeable to tax under the provisions of section 54D, and the provisions of section 154 shall, so far as may be, apply thereto, the period of four years specified in sub-section (7) of that section being reckoned from the date of the assessment.".

Section 16 - Amendment of Section 194C

In section 194C of the Income-tax Act, -

(a) in sub-section (1), -

(i) in clause (d), for the word "company,", the words "company; or" shall be substituted;

(ii) after clause (d), the following clause shall be inserted, namely :-

"(e) any co-operative society,";

(b) in sub-section (3), -

(i) in clause (ii), for the word and figures "June, 1972.", the words and figures "June, 1972; or" shall be substituted;

(ii) after clause (ii), the following clause shall be inserted, namely :-

"(iii) any sum credited or paid before the 1st day of June, 1973, in pursuance of a contract between the contractor and a co-operative society or in pursuance of a contract between such contractor and the sub-contractor in relation to any

work (including supply of labour for carrying out any work), undertaken by the contractor for the co-operative society."

Section 17 - Insertion of New Section 194D

After section 194C of the Income-tax Act, the following section shall be inserted, namely :-

"194D. Insurance commission. - Any person responsible for paying to a resident any income by way of remuneration or reward, whether by way of commission or otherwise, for soliciting or procuring insurance business (including business relating to the continuance, renewal or revival of policies of insurance) shall, at the time of credit of such income to the account of the payee or at the time of payment thereof in cash or by issue of a cheque or draft or by any other mode, whichever is earlier, deduct income-tax thereon at the rates in force :

Provided that no deduction shall be made under this section from any such income credited or paid before the 1st day of June, 1973."

Section 18 - Amendment of Section 197

In section 197 of the Income-tax Act, in clause (a) of sub-section (1), after the figures and letter "194B", the figures and letter ",194D" shall be inserted.

Section 19 - Amendment of Sections 198, 199, 200, 202, 203, 204, 205, 209 and 215

In sections 198, 199, 200, 202, 203, 204 and 205, in sub-clause (iii) of clause (a) of section 209, and in sub-section (5) of section 215, of the Income-tax Act, after the word, figures and letter "section 194C", the word, figures and letter ",section 194D" shall be inserted.

Section 20 - Wealth-Tax

Section 20 - Amendment of Act 27 of 1957

In the Schedule to the Wealth-tax Act, 1957, in Paragraph A of Part I, with effect from the 1st day of April, 1974, -

(a) in item (1), for the words "in the case of every individual or Hindu undivided family -", the words brackets, figure and letter "in the case of every individual or Hindu undivided family, not being a Hindu undivided family to which item (1A) of this Paragraph applies -" shall be substituted;

(b) after item (1), the following item shall be inserted, namely :-

"(1A) In the case of every Hindu undivided family which has at least one member whose net wealth assessable for the assessment year exceeds Rs. 1,00,000 -

Rates of Tax

(a) where the net wealth does not exceed Rs. 5,00,000	2 per cent. of the net wealth;
(b) where the net wealth exceeds Rs. 5,00,000 but does not exceed Rs. 10,00,000	Rs. 10,000 plus 3 per cent. of the amount by which the net wealth exceeds Rs. 5,00,000;
(c) where the net wealth exceeds Rs. 10,00,000	Rs. 25,000 plus 8 per cent. of the amount by which the net wealth exceeds Rs. 10,00,000 :

Provided that for the purposes of this item, -

(i) no wealth-tax shall be payable where the net wealth does not exceed Rs. 2,00,000;

(ii) the wealth-tax payable shall, in no case, exceed 10 per cent. of the amount by which the net wealth exceeds Rs. 2,00,000."

Section 21 - Gift-Tax

Section 21 - Amendment of Act 18 of 1958

In section 5 of the Gift-tax Act, 1958, in clause (v) of sub-section (1), after the words "fund established", the words "or deemed to be established" shall be inserted with effect from the 1st day of April, 1974.

Section 22 - Surtax

Section 22 - Amendment of Act 7 of 1964

In the Companies (Profits) Surtax Act, 1964, with effect from the 1st day of April, 1974, -

(a) in then First Schedule, in clause (i) of rule 3, for the words "its debentures", the words, brackets and figures "the debentures referred to in clause (iv)," shall be substituted;

(b) in the Second Schedule, -

(i) in rule 1, for clause (iv), the following clause shall be substituted, namely :-

"(iv) the debentures, if any, issued by it to the public :

Provided that according to the terms and conditions of issue of such debentures, they are not redeemable before the expiry of a period of seven years from the date of issue thereof; and";

(ii) in rule 3, for the words, brackets and figures "issue of debentures or borrowing of any moneys referred to in clause (v) of rule 1 or is reduced by any amount on account

of reduction of paid-up share capital or redemption of an debentures", the words, brackets and figures "issue of the debentures referred to in clause (iv), or borrowing of any moneys referred to in clause (v), of rule 1 or is reduced by any amount on account or reduction of paid-up share capital or redemption of such debentures" shall be substituted.

Section 23 - Miscellaneous

Section 23 - Credit guarantee corporation of india limited to be exempt for a certain period from liability to pay income-tax and surtax

Notwithstanding anything contained in the Income-tax Act or the Companies (Profits) Surtax Act, 1964 (7 of 1964), the Credit Guarantee Corporation of India Limited (a company formed and registered under the Companies Act, 1956 (1 of 1956)), shall not be liable to pay any tax, under either of the two Act, first-mentioned, on its income, profits or gains for the previous year relevant to the assessment year commencing on the 1st day of April, 1972, and for the four previous years next following that previous year.